IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.2988 OF 2005

Ricoh India Ltd. .. .. Petitioner
v/s.
Union of India & ors. .. Respondents

Mr.H.C. Daruwalla i/by M/s.Singhania & Co. for petitioner.

Mr.A.S.Rao for res.Nos.1 & 2.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 19th December 2005

P.C. :

1. Heard Mr.Daruwalla in support of this Petition. Mr.Rao appears for respondent Nos.1 and 2.

2. Rule. Rule is made returnable forthwith. Both the Counsel are heard.

3. The petitioner is challenging the order in original dated 19th September 2003 which is sought to be executed through the Notice dated 14th November 2005 issued by the Directorate of Enforcement, Mumbai and thereafter the Notice dated 22nd November 2005 issued by the Collector, Mumbai, Land Revenue Department of the State Government.

4. Mr.Daruwalla, learned Counsel appearing for the petitioner, points out that the impugned order in original was passed on 19th September 2005 imposing penalty on the petitioner under Section 8(3) of the Foreign Exchange Regulations Act ("FERA"), 1973 read with the other relevant provisions. This order was passed admittedly without serving a notice on the petitioner. From paragraph 5 of this order, it is seen that the notice of personal hearing came back undelivered with the remark "left". In spite of that, the concerned Director of the Foreign Exchange Department had proceeded to pass the order which obviously is an ex-parte order imposing the aforesaid penalty.

5. Now, this order is sought to be executed through the Directorate of Enforcement, Mumbai and thereafter by the office of the Collector, Mumbai. Therefore, the present Petition is filed.

6. We have gone through the papers. It is clearly seen that the order in original was passed when nobody was present for the petitioner. The postal acknowledgement had come back with the remark "left". No further attempt was made to

serve the petitioner. Now, after two years, the order is sought to be executed. In this situation, the proper course is to set aside the order in original dated 19th September 2003 as also the Notice dated 14th November 2005 issued by the Directorate of Enforcement, Mumbai and thereafter the Notice dated 22nd November 2005 issued by the Collector, Mumbai.

7. Accordingly, we set aside this order as well as these two Notices and make the Rule absolute. No order as to costs.

8. In view of this order, it will be open to the concerned officer of the respondents to issue a fresh notice to the petitioner. If any such notice is issued, obviously the petitioner will file its reply and co-operate for early disposal of the matter.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)